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## Financial Institutions & Insurance Committee

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### HB 2061

**Brief Description:** Concerning the powers of the public deposit protection commission in regard to banks, savings banks, and savings associations as public depositaries.

**Sponsors:** Representative Kirby; by request of State Treasurer.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Makes numerous modifications to the powers of the Public Deposit Protection Commission and to the requirements of public depositaries.</li></ul>
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**Hearing Date:** 2/12/09

**Staff:** Alison Hellberg (786-7152)

**Background:**

Public funds may only be deposited in banks and thrift institutions that have been approved as public depositaries by the Public Deposit Protection Commission (Commission). The Commission was established in 1969 and is comprised of the Governor, the Lieutenant Governor, and the State Treasurer. The State Treasurer chairs the Commission and provides administrative support. The Commission is responsible for protecting all public funds deposited in public depositaries.

"Public funds" are those moneys belonging to or held for the state, its political subdivisions, municipal corporations, agencies, courts, boards, commissions, or committees, and includes moneys held in trust.

A "public depositary" is defined as a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has been approved by the Commission to hold public deposits, and which has segregated

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for the benefit of the Commission eligible collateral having a value of not less than its maximum liability. There are separate collateral pools maintained for banks and thrifts.

The Commission's powers include:

- making and enforcing regulations to complete its functions;
- requiring any public depository to furnish information dealing with public deposits and the exact status of its net worth;
- taking action for the protection, collection, compromise or settlement of any claim arising in case of loss;
- fixing the requirements for qualification of financial institutions as public depositories, and fixing other terms and conditions under which public deposits may be received and held;
- setting criteria establishing minimum standards for the financial condition of bank and thrift depositories and, if the minimum standards are not met, providing for additional collateral requirements or restrictions regarding a public depository's right to receive or hold public deposits;
- fixing the official date on which any loss shall be deemed to have occurred; and
- in case loss occurs in more than one public depository, determining the allocation and time of payment of any sums due to public depositors.

To be approved as a public depository, a financial institution must meet minimum requirements of the Commission and must pledge securities as collateral to protect public funds on deposit in all public depositories (not just for that particular institution). For the first 12-months as a public depository, a depository must pledge and segregate eligible securities of at least 10 percent of all public funds on deposit in the depository. If deposit insurance and collateral pledged by a failed institution are insufficient to reimburse all public depositors, the other public depositories are each assessed a proportionate share of the shortfall.

The Commission may require the State Auditor or the Department of Financial Institutions (DFI) to investigate and report on the condition of any financial institution applying to become a public depository. The Commission may also require an investigation and report on the condition of any public depository. The DFI must also advise the Commission of any action the agency has directed a public depository to take which will result in a reduction of greater than 10 percent of the net worth of the depository. A public depository must notify the Commission within five working days of any event that causes a reduction of greater than 10 percent in the net worth of the depository.

### **Summary of Bill:**

#### ***Powers of the Commission***

The Commission is given "broad administrative discretion" in performing its general powers. The Commission may delegate all of its authority to the State Treasurer, except rulemaking. The enforcement authority of the Commission is clarified. The Commission may assess costs or deny, suspend, or revoke authority to hold public funds, if a public depository fails to: provide, or allow verification of, required information; or comply with relevant laws and rules or policies of the Commission. Further, the Commission may make and enforce sanctions against a public depository for noncompliance with relevant laws, rules, or policies.

The Commission is authorized to set by resolution, based on criteria established in rule, a sum or measure as the maximum liability of public depositaries. The State Treasurer may also do so in exigent circumstances, but the sum or measure must be reviewed and ratified by the Commission within 90 days.

In addition to the existing requirement that the DFI certify reports from public depositaries, the DFI must provide information or data as may be required by the Commission.

The Commission is required to maintain a single depositary pool and treat public depositaries uniformly without regard to differences in their charters.

***Public Depositary Requirements***

The Commission may establish the required amount of eligible securities that a public depositary must pledge and segregate.

Public depositaries must provide the exact status of its capitalization, collateral, and liquidity, in addition to the existing requirement of providing information about its net worth. Public depositaries must notify the Commission of an event which causes its net worth to be reduced in an amount greater than 10 percent, from within five working days to within 48 hours, or by the close of business of the following business day.

A public depositary's liability is not altered by a merger, takeover, or acquisition, except if liability is assumed by agreement or law by the successor entity or resulting financial institution.

**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2009.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.